IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR.JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.6420 of 2000

Dated: 13.07.2007

Between:
M.T.Jaffar Hussain … PETITIONER

And

1.The State of A.P. represented by its
District Collector, Chittoor District
and another ..RESPONDENTS

THE HON'BLE MR.JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.6420 of 2000

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring that the action of the respondents in dispossessing the petitioner from an extent of Ac.0.05 cents of land in Sy.No.273/2 of Pedda Upparapalle revenue village, Somala Mandal, Chittoor District contrary to the decision in O.S.No.434 of 1986 on the file of the Principal District Munsif, Punganur, as illegal and arbitrary.

The case of the petitioner is that an extent of Ac.0.05 cents of land in the aforesaid survey number originally belonged to one Vardan Venkatappa and he was in possession and enjoyment of the same in his own right and title. As the father of the petitioner and the said Venkatappa happened to be good friends they both mutually agreed to exchange the land and accordingly on 12.05.1958 by virtue of a registered exchange deed they exchanged the land and thus the land in question fell to the share of the petitioner's father and since then his father is in peaceful possession and enjoyment of the same. When the respondents issued a notice under Sections 6 and 7 of the Land Encroachment Act seeking to vacate the land in question, the father of the

petitioner filed a suit being O.S.No.434 of 1986 on the file of the District Munsif Court, Punganur, against the respondents herein for declaration of title and permanent injunction and the same was decreed on 06.11.1990. Since the respondents have not questioned the said judgment in any Court, the same has become final, conclusive and binding upon them. It is further stated that after the death of his father, the petitioner succeeded to his estate including the land in question. Since the respondents are trying to dispossess the petitioner from the land in question, the petitioner filed the present writ petition.

Respondents though served did not choose to file any counter-affidavit.

From a perusal of the judgment and decree in O.S.No.434 of 1986, it is clear that one M.T.Raheem Saheb (father of the petitioner) is the plaintiff and the defendants therein are none other than respondents 1 and 2 herein. As per the decree dated 06.11.1990, it is clear that the petitioner's father right and title over the suit schedule property i.e., an extent of Ac.0.05 cents in Sy.No.273/2 was declared as that of his own and the respondents herein are restrained by means of permanent injunction from interfering with the petitioner's father peaceful possession and enjoyment of the suit schedule property. Since the said judgment had become final and binding on the respondents, it is not known as to how the respondents are trying to interfere with the petitioner's peaceful possession and enjoyment of the land in question.

The writ petition is accordingly allowed and the respondents are directed not to interfere with the petitioner's peaceful possession and enjoyment of the land in question, without following due process of law. No costs.

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(GOPALA KRISHNA TAMADA, J)

13.07.2007
Gsn.